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UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

2002 APR -4 PM 4:26

**NEIL GAIMAN, and
MARVELS AND MIRACLES, LLC,**

Plaintiffs,

v.

Case No.: 02-C-0048-S

**TODD MCFARLANE,
TODD MCFARLANE PRODUCTIONS,
INC., TMP INTERNATIONAL, INC.,
MCFARLANE WORLDWIDE, INC., and
IMAGE COMICS, INC.,**

Defendants.

**PLAINTIFFS' NOTICE OF MOTION AND MOTION TO REFUSE
APPLICATION OF JUDGMENT OR FOR A CONTINUANCE TO PERMIT THE
TAKING OF DEPOSITIONS AND DISCOVERY PURSUANT TO RULE 56(f)**

TO: R. Scott Feldmann, Esq.
Brobeck, Phleger & Harrison, LLP
38 Technology Drive
Irvine, CA 92618-5312

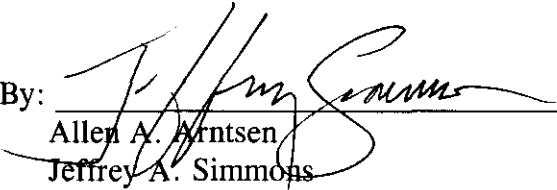
Todd G. Smith, Esq.
LaFollette, Godfrey & Kahn
One East Main Street, Suite 500
P.O. Box 2719
Madison, WI 53701-2719

Michael Kahn, Esq.
Stinson, Mag & Fizzell
100 S. 4th Street, Suite 700
St. Louis, MO 63102

PLEASE TAKE NOTICE that plaintiffs Neil Gaiman and Marvels and Miracles, LLC, hereby move the Court, pursuant to Fed. R. Civ. P. 56(f), to refuse defendant Image Comics, Inc.'s application for judgment or to order a continuance to permit the taking of deposition and additional discovery. The grounds for this motion are set forth in the

accompanying Affidavit of Jeffrey A. Simmons and Plaintiffs' Brief in Response to Defendant Image Comics' Motion to Dismiss and in Support of Plaintiffs' Rule 56(f) Motion.

Dated this 4th day of April, 2002.

By: 
Allen A. Arntsen
Jeffrey A. Simmons

Attorneys for Plaintiffs
Neil Gaiman and Marvels and Miracles, LLC

Of Counsel:

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UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

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**NEIL GAIMAN, and
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Plaintiffs,

Case No.: 02-C-0048-S
J W SKOLNIEVITZ
CLERK US DIST COURT
WD OF WI

v.

**TODD MCFARLANE,
TODD MCFARLANE PRODUCTIONS, INC.,
TMP INTERNATIONAL, INC.,
MCFARLANE WORLDWIDE, INC., and
IMAGE COMICS, INC.,**

Defendants.

CERTIFICATE OF SERVICE

I, Brenda Allen-Johnson, hereby certify that I am an employee of Foley & Lardner, that on the 4th day of April, 2002, I caused a true and correct copies of the following documents:

1. Plaintiffs' Notice of Motion and Motion to Refuse Application of Judgment or for a Continuance to Permit the Taking of Depositions and Discovery Pursuant to Rule 56(f);
2. Plaintiffs' Brief in Response to Defendant Image Comics' Motion to Dismiss and in Support of Plaintiffs' Rule 56(f) Motion;
3. Affidavit of Jeffrey A. Simmons;
4. Declaration of Neil Gaiman; and
5. Affidavit of Brenda Allen-Johnson

to be served as shown below on counsel for defendants as follows:

Via Facsimile and U.S. Mail:

Facsimile No.: (949) 790-6301

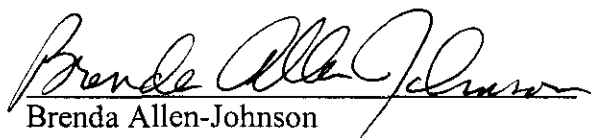
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Via Hand Delivery:

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Brenda Allen-Johnson